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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

F-673

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on October 11, 2006

Signature

Typed or printed name Amy Harvey

Application Number

10/626,850

Filed

July 22, 2003

First Named Inventor

F. Bator

Art Unit

3629

Examiner

I. Borissov

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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October 11, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Claims 1-3, 9, 10 and 12-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shah et al. (5,822,738). Claims 3 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shah in view of Official Notice. Reconsideration is respectfully requested.

A problem with conventional virtual metering is that customers, i.e., mailers, using a virtual postage metering system to evidence postage on mail have to obtain a meter license for a meter account with a dedicated origin zip code. This meant the mailer had to go through a registration process with the United States Post Office (USPS) and wait for approval from the USPS for a meter license before the mailer was allowed to print postage obtained over the Internet. This delay, due to the mailer having to wait for approval for a meter license from the USPS before being able to print postage from a PC, can act as a deterrent to mailers to utilize PC postage. (Specification, paragraphs [0009] and [0023]).

The present invention alleviates the problems of the prior art by providing a system and method that allows instant metering of online postage. In accordance with the present invention, a mailer can print postage on a PC printer without having a meter license or meter account. In one embodiment, a meter account is licensed to a vendor (and not the individual mailer) for dispensing postage to customers from a plurality of origin zip codes. A vendor meter account 50 is located at a remote Data Center 30. The meter account 50, which is assigned to the vendor, dispenses postage payment evidence to a plurality of customers 25. (Specification, paragraph [0031]).

In view of the above, claim 1 recites a method for a vendor to dispense postage over a network to a remote personal computer that comprises "obtaining a meter license from the Post, said meter license being associated with a meter account assigned to the vendor, said meter account being maintained at a data center; receiving, via the network, a transaction request for postage from a customer using the remote personal computer, said transaction request including information from the customer, said information corresponding to the transaction requested and payment method; processing the requested transaction by requesting the data center to create evidence

of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor; effecting payment for the transaction based on the information received from the customer; receiving the evidence of postage payment created by the data center; and sending the evidence of postage payment to the remote personal computer for use by the customer.” Thus, a mailer (customer) can print postage utilizing a meter account assigned to the vendor, and therefore the customer does not require a separate meter license or meter account.

Shah et al. (U.S. 5,822,738) is directed to a modular postage accounting system in which a general purpose computer, a digital printer and a secure metering device (SMD) can be used to print postage. The SMD performs the accounting functions of a postage meter and generates encrypted postage indicia data for transmission by the computer to the digital printer and subsequent printing on a mailpiece. Alternatively, the SMD functions may be embedded within with a computerized meter resetting system (CMRS). Before a user can utilize the device in Shah, the user must obtain a license from the postal service and have a postal account established for the user by the postal service. As noted in Shah, “A user who has obtained the required license from the postal service can contact with the meter company to interface the user’s general purpose computer to the CMRS computer via modem and telephone line.” (Col. 2, lines 13-16, emphasis added).

Thus, in Shah, the customer must obtain the proper meter license from the post and establish an associated meter account assigned to the customer with the post. This is in direct contrast with the present invention, in which a customer can print postage utilizing a meter account assigned to the vendor instead of a meter license or meter account assigned to the customer. In Shah the accounting performed for any postage generated is done using an account assigned to the user. A multi-site user’s individual sites can process mail continuously, with payment to the post office and replenishment of credit handled through central accounting facilities. As long as the user’s central accounting facility maintains adequate fund reserves, the individual sites have access to an on-line service which provides postage on an as-needed basis. (Col. 2, lines 55-61). Each user must, therefore, have a meter account with the postal service in order to print postage.

There is no disclosure, teaching or suggestion in Shah of a “meter license being associated with a meter account assigned to the vendor” as is recited in claim 1. Furthermore, there is no disclosure, teaching or suggestion in Shah of dispensing postage in response to a transaction request received by a vendor over a network from a customer that includes “processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor” as is recited in claim 1.

The Office Action contends that the language of the claims does not prevent the customer to have the meter license or meter account assigned to the customer. (Office Action, page 6). Claim 1 clearly recites that the meter license is associated with a meter account assigned to the vendor and that the created evidence of postage payment is accounted for in the meter account assigned to the vendor. It is unclear what the basis is for the contention that the claim does not prevent the customer from having the meter license or meter account assigned to the customer, since the claim clearly recites that the meter license and meter account are assigned to the vendor.

The Office Action further contends that Shah explicitly discloses the feature of the meter license or meter account being assigned to the vendor in Col. 1, lines 46-51 and Col. 2, line 10-17. This contention is simply incorrect. Col. 1, lines 42-51, is reproduced below.

In contrast, modern electronic meters are often capable of being reset directly by an authorized party, on-site (at the user's location) via a communications link. A system which performs meter resetting in this manner is known as a Computerized Meter Resetting System (or "CMRS"). The party having authority to reset the meter and charge the customer (usually the manufacturer or the postal authority) thus gains access to and resets the meter.

This paragraph relates to recharging the meter with additional postage funds. Note, however, that the account is still assigned to the customer. There is nothing in this paragraph that discloses the account being assigned to the vendor. If the user has not obtained a proper meter license, the user will never be able to recharge the meter. The Office Action has not provided any indication of where in this passage it is explicitly,

or even implicitly, disclosed that a meter license or meter account is assigned to the vendor instead of to the customer as is traditionally done.

Col. 2, lines 10-17, of Shah are reproduced below.

In another embodiment, the present invention eliminates that requirement by embedding the SMD functions within the CMRS computer system. A user who has obtained the required license from the postal service can contract with the meter company to interface the user's general purpose computer to the CMRS computer via modem and telephone line.

This passage clearly states "A user who has obtained the required license from the postage service and contract with the meter company . . ." This passage explicitly discloses that the meter license is associated with a meter account assigned to the customer (user) and not the vendor as is recited in claim 1. The Office Action has not provided any indication as to how this passage, which explicitly requires the user to obtain a meter license, can be interpreted to disclose that the vendor obtains the meter license.

For at least the above reasons, Applicants respectfully submit that claim 1 is allowable over the prior art of record. Claims 2, 3 and 9, dependent upon claim 1, are allowable along with claim 1 and on their own merits.

Claims 10 and 14 include limitations substantially similar to claim 1. For the same reasons given with respect to claim 1 above, Applicants respectfully submit that claims 10 and 14 are allowable over the prior art of record. Claims 11-13, dependent upon claim 10, are allowable along with claim 10 and on their own merits.

In view of the foregoing remarks, it is respectfully submitted that the claims of this case are in a condition for allowance and favorable action thereon is requested.